

AMENDED IN ASSEMBLY APRIL 27, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1816

**Introduced by ~~Assembly Member Wayne~~ Assembly
Members Wayne, Kuehl, Machado, and Strom-Martin**
(Coauthors: Senators Karnette and Solis)

February 3, 2000

An act to amend Section 22433 of the Business and Professions Code, relating to simulated checks.

LEGISLATIVE COUNSEL'S DIGEST

AB 1816, as amended, Wayne. Simulated checks.

Existing law provides that no person shall produce, advertise, offer for sale, sell, distribute, or otherwise transfer for use in this state any simulated check, as defined, unless the document bears language in clear and conspicuous type indicating that the document is not a check. Existing law provides for enforcement of this provision by the Attorney General, who may seek an injunction and a civil penalty, as specified.

This bill would completely prohibit the use of simulated checks, and would make legislative findings in this regard.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that
2 the use of simulated checks is inherently misleading to
3 many members of the public who believe that they have
4 won a prize or gift or received a monetary benefit
5 represented by the simulated check and that the
6 simulated check itself either has the value represented on
7 its face or represents an actual check or other item of
8 value that can be claimed or redeemed with the
9 simulated check. The Legislature further finds and
10 declares that disclosures, such as an indication that the
11 simulated check is not a real check, have not been
12 effective in curing the misleading impact created by the
13 bogus checks. It is, therefore, the intent of the Legislature
14 to prevent the deception inherent in simulated checks by
15 prohibiting their use.

16 SEC. 2. Section 22433 of the Business and Professions
17 Code is amended to read:

18 22433. (a) As used in this section, “simulated check”
19 means any document that is not currency or a check,
20 draft, note, bond, or other negotiable instrument but that,
21 because of its appearance, has the tendency to mislead or
22 deceive any person viewing it into believing that it, in
23 fact, represents: (1) currency or a negotiable instrument
24 that can be deposited in a bank or used for third party
25 payments; (2) *a prize, gift, or monetary benefit that the*
26 *recipient has won or is entitled or guaranteed to receive;*
27 *or (3) an actual check or other item of value that can be*
28 *claimed or redeemed.* “Simulated check” does not
29 include a nonnegotiable check, draft, note, or other
30 instrument that is used for soliciting orders for the
31 purchase of checks, drafts, notes, bonds, or other
32 instruments, and that is clearly marked as a sample,
33 specimen, or nonnegotiable. “*Simulated check*” also does
34 *not include any document indicating in a truthful and*
35 *nonmisleading manner that a person, in fact,*
36 *unconditionally has won or is entitled or guaranteed to*
37 *receive a specific prize, gift, or amount of money or*
38 *credit.*

1 (b) No person shall produce, advertise, offer for sale,
2 sell, distribute, or otherwise transfer for use in this state
3 any simulated check.

4 (c) The Attorney General may bring an action to
5 enjoin a violation of this section, and to recover a civil
6 penalty of not more than one hundred dollars (\$100) for
7 each violation of this section. A violation of this section
8 may be enjoined without proof that any person has, in
9 fact, been injured or damaged by the violation.

